

STATE OF SOUTH CAROLINA

(Caption of Case)  
In the Matter of:

Application of Duke Energy Carolinas,  
LLC for Approval of Energy Efficiency  
Plan Including an Energy Efficiency Rider  
and Portfolio of Energy Efficiency Programs

BEFORE THE  
PUBLIC SERVICE COMMISSION  
OF SOUTH CAROLINA

COVER SHEET

DOCKET

NUMBER: 2007 - 358 - E

(Please type or print)

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- ☐ Emergency Relief demanded in petition      ☐ Request for item to be placed on Commission's Agenda expeditiously
- ☐ Other: \_\_\_\_\_

INDUSTRY (Check one)	NATURE OF ACTION (Check all that apply)			
<input checked="" type="checkbox"/> Electric	<input type="checkbox"/> Affidavit	<input type="checkbox"/> Letter	<input type="checkbox"/> Request	
<input type="checkbox"/> Electric/Gas	<input type="checkbox"/> Agreement	<input type="checkbox"/> Memorandum	<input type="checkbox"/> Request for Certification	
<input type="checkbox"/> Electric/Telecommunications	<input type="checkbox"/> Answer	<input type="checkbox"/> Motion	<input type="checkbox"/> Request for Investigation	
<input type="checkbox"/> Electric/Water	<input type="checkbox"/> Appellate Review	<input type="checkbox"/> Objection	<input type="checkbox"/> Resale Agreement	
<input type="checkbox"/> Electric/Water/Telecom.	<input type="checkbox"/> Application	<input type="checkbox"/> Petition	<input type="checkbox"/> Resale Amendment	
<input type="checkbox"/> Electric/Water/Sewer	<input type="checkbox"/> Brief	<input type="checkbox"/> Petition for Reconsideration	<input type="checkbox"/> Reservation Letter	
<input type="checkbox"/> Gas	<input type="checkbox"/> Certificate	<input type="checkbox"/> Petition for Rulemaking	<input type="checkbox"/> Response	
<input type="checkbox"/> Railroad	<input type="checkbox"/> Comments	<input type="checkbox"/> Petition for Rule to Show Cause	<input type="checkbox"/> Response to Discovery	
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<input type="checkbox"/> Transportation	<input type="checkbox"/> Discovery	<input checked="" type="checkbox"/> Prefiled Testimony	<input type="checkbox"/> Subpoena	
<input type="checkbox"/> Water	<input type="checkbox"/> Exhibit	<input type="checkbox"/> Promotion	<input type="checkbox"/> Tariff	
<input type="checkbox"/> Water/Sewer	<input type="checkbox"/> Expedited Consideration	<input type="checkbox"/> Proposed Order	<input type="checkbox"/> Other:	
<input type="checkbox"/> Administrative Matter	<input type="checkbox"/> Interconnection Agreement	<input type="checkbox"/> Protest		
<input type="checkbox"/> Other:	<input type="checkbox"/> Interconnection Amendment	<input type="checkbox"/> Publisher's Affidavit		
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STATE OF SOUTH CAROLINA  
BEFORE THE PUBLIC SERVICE COMMISSION  
DOCKET NO. 2007-358-E

In the Matter of:	)	SURREBUTTAL TESTIMONY OF
	)	DONALD GILLIAN ON BEHALF OF
Application of Duke Energy	)	ENVIRONMENTAL DEFENSE, THE
Carolinas, LLC for Approval of	)	SOUTH CAROLINA COASTAL
Energy Efficiency Plan Including an	)	CONSERVATION LEAGUE,
Energy Efficiency Rider and Portfolio	)	SOUTHERN ALLIANCE FOR CLEAN
of Energy Efficiency Programs	)	ENERGY AND THE SOUTHERN
	)	ENVIRONMENTAL LAW CENTER
	)	

1   **Q.     PLEASE STATE YOUR NAME, ADDRESS AND POSITION.**

2   A.           My name is Donald Gilligan. I am the President of the National  
3           Association of Energy Service Companies (“NAESCO”), which has its offices at  
4           1615 M Street, NW Suite 800 in Washington, DC. As President of NAESCO, I  
5           am responsible for leading the Association’s advocacy efforts nationwide with the  
6           focus on state legislative and regulatory initiatives.

7   **Q.     HAVE YOU FILED DIRECT TESTIMONY REGARDING DUKE**  
8   **ENERGY CAROLINA’S APPLICATION IN THIS DOCKET?**

9   A.           Yes, I provided direct testimony on behalf of Environmental Defense  
10          (“ED”), the South Carolina Coastal Conservation League (“CCL”), the Southern  
11          Environmental Law Center (“SELC”), and Southern Alliance for Clean Energy  
12          (“SACE”).

13  **Q.     WHAT IS THE PURPOSE OF YOUR SURREBUTTAL TESTIMONY?**

14  A.           The purpose of my surrebuttal testimony is to address several points that  
15          Duke Energy Carolinas, LLC (“Duke”) Witnesses Stevie and Schultz made in the  
16          their rebuttals to my direct testimony. Specifically, I will address the following:

17          1.     The assertions made by Witness Stevie (Stevie Rebuttal Testimony  
18                  at 4) and Witness Schultz (Schultz Rebuttal Testimony at 10) that Duke  
19                  has disclosed all the information required to assure that its programs have  
20                  the explicit acceptance of the stakeholders necessary to make the programs  
21                  sustainable.

1           2.       The questions asked by Witness Stevie (Stevie Rebuttal Testimony at 5)  
2                   about the purpose and conclusions of the Summit Blue presentation that I  
3                   introduced in my direct testimony.

4           3.       The defense offered by Witness Stevie (Stevie Rebuttal Testimony at 6)  
5                   and Witness Schultz (Schultz Rebuttal Testimony at 9) of my criticism  
6                   that the proposed goals of the proposed Duke save-a-watt (“SAW”)  
7                   program are too modest.

8           My intent in this surrebuttal, as it was in my direct testimony, is to encourage  
9           Duke to improve its proposed energy efficiency programs, so that they will be  
10           sustainable and will capture the full potential of energy efficiency in South  
11           Carolina.

12   **Q.       HOW DO YOU RESPOND TO THE TESTIMONY OF WITNESSES**  
13           **STEVIE SCHULTZ THAT DUKE HAS, IN FACT, DISCLOSED ALL**  
14           **NECESSARY DATA REGARDING THE PROPOSED OPERATION OF**  
15           **ITS PROGRAMS?**

16   A.           In my direct testimony, I stated that Duke’s Application was deficient  
17                   because it does not disclose all of the necessary data in a form that facilitates  
18                   public discussion and acceptance of Duke’s proposed SAW program. Witnesses  
19                   Stevie and Schultz rebut my testimony by listing the information that Duke has  
20                   disclosed.

21                   However, as they note, much of the data described by Witnesses Stevie  
22                   and Schultz is confidential, which, by definition, is not available for public  
23                   discussion. It is important to note that Duke’s Application, and its proposed

1 avoided cost compensation method, was not made pursuant to legislative or  
2 regulatory mandate that specified the avoided cost methodology. Rather, Duke  
3 has made a voluntary Application, which it knows cannot be subject to full public  
4 discussion. I suggest that the onus is on Duke to demonstrate why such an  
5 application is in the best interests of South Carolina ratepayers.

6 In my experience, public acceptance of the costs, benefits and profitability  
7 of a utility energy efficiency program are critical elements of its long-term  
8 sustainability. My opinion is reinforced by the recent National Action Plan for  
9 Energy Efficiency (“NAPEE”) report by the Energy Efficiency Leadership Group,  
10 which is co-chaired by Duke CEO Jim Rogers. The NAPEE report urges,  
11 “any/all [rate recovery] mechanisms be transparent with respect to both  
12 calculation of recoverable amounts and overall impact on utility earnings.” In  
13 other words, utilities must clearly disclose the profitability of their proposed  
14 energy efficiency programs in order to gain public acceptance of the programs.

15 The public needs to know, and agree to, the profitability of utility energy  
16 efficiency programs because the process of arriving at this agreement imposes  
17 pricing discipline on the utility, which, as a monopoly, is not subject to such  
18 discipline from a competitive market. By pricing, I mean the effective price that  
19 the utility is charging the ratepayers for the energy efficiency measures in its  
20 programs.

21 In its proposal, Duke is arguing that the ratepayers will always receive a  
22 benefit because the cost of energy efficiency will always be less than the cost of

1 new energy supply. This argument, however, prompts the question whether the  
2 price that Duke is charging for the energy efficiency measures is sustainable.

3 The example of a compact fluorescent light bulb (“CFL”) demonstrates  
4 that Duke may be charging an unsustainable price for energy efficiency measures.  
5 The retail price of a bulb is well known, can be confirmed by any ratepayer at  
6 numerous retail outlets, and is a tiny fraction of 90 percent of the long-term  
7 avoided cost of the bulb, which is the price that Duke is proposing to charge the  
8 ratepayers. The exact price is confidential because Duke’s avoided cost numbers  
9 are confidential, but its manufacturer prints a reasonable approximation of the  
10 price on the CFL bulb package. My calculations on a bulb I recently purchased  
11 are that the effective price that Duke is proposing to charge for the CFL bulb is  
12 almost \$23 for a bulb that I bought for 99 cents.

13 This simple comparison, of course, does not include other program costs.  
14 In addition to the bulb, Duke will provide market research, marketing and  
15 program implementation services to convince customers to actually buy the bulbs.  
16 Duke will provide verification services to document that the consumers who buy  
17 the bulbs actually use them. And Duke deserves to earn a profit on its provision of  
18 these useful services that are at the heart of a well-designed energy efficiency  
19 program. So if we are going to be fair, we need to know the cost of these services  
20 and Duke’s proposed profit, and make a judgment if Duke’s proposal is fair and  
21 sustainable.

22 If the costs and profit are publicly discussed, and publicly accepted by  
23 stakeholders and the Commission, the program will be sustainable. Customers

1 may grouse about the costs a bit, just as I am sure they grouse about Duke's  
2 electric rates. But across the country, it has been shown that the public will accept  
3 a properly designed and publicly vetted program and use the services that a utility  
4 offers.

5 If there is no public acceptance of the costs, benefits and profitability of  
6 energy efficiency programs, their sustainability is threatened. The effective price  
7 of many of the products and services that Duke is proposing to offer in its  
8 programs is well known, because there is currently a multi-billion dollar  
9 competitive marketplace, as well as multi-billion dollar utility energy efficiency  
10 programs whose costs and profitability are discussed in public proceedings  
11 delivering these services.

12 The notion that Duke can keep the effective prices it is charging its  
13 ratepayers for these products and services a secret, indefinitely, is not credible in  
14 today's world. If, when the inevitable disclosure and comparison comes, it turns  
15 out that Duke ratepayers are effectively paying significantly more than New  
16 Yorkers or Californians or Virginians for their CFL bulbs or home energy audits  
17 or load shifting systems, Duke's programs will become highly controversial. My  
18 experience in other states is that, faced with this controversy, the South Carolina  
19 Commission will feel it is necessary to order a review and overhaul of the Duke  
20 programs, perhaps even transferring them from utility to third-party  
21 administration.

22 Businesses like NAESCO members, who have invested in establishing the  
23 delivery capabilities that Duke will utilize in delivering its programs will be

1 forced to reduce their investment, lay off staff, and turn their attention to other  
2 markets while the situation in South Carolina is resolved, a process that has taken  
3 several years in other states.

4 We therefore think it is sensible to have the full discussion of costs,  
5 benefits and profitability now, rather than a year or two from now.

6 **Q. HOW DO YOU RESPOND TO WITNESS STEVIE'S REBUTTAL**  
7 **TESTIMONY THAT YOUR CHARACTERIZATION OF THE DUKE**  
8 **ENERGY INDIANA PROGRAMS IS INACCURATE?**

9 A. My testimony actually tried to make a much milder point than the one  
10 Witness Stevie apparently took from it as suggested in his Rebuttal Testimony at  
11 4. My point was not to indict the Duke Energy Indiana programs, but rather to  
12 say that the record of the programs, as suggested by the recent presentation from  
13 Summit Blue, does not entitle Duke to an exemption from the kind of public  
14 examination of the costs, benefits and profitability of its programs, as discussed  
15 above. What I said in my testimony is, "Based on these results from another Duke  
16 program, I think that the costs and benefits of the programs that Duke is  
17 proposing for South Carolina should get rigorous public scrutiny."

18 Witness Stevie also asked for a full copy of the Summit Blue presentation  
19 and a description of the context in which it was presented. A full copy of the  
20 presentation is attached. The context is that the presentation was made at a recent  
21 conference of the Midwest Energy Efficiency Alliance (MEEA). Duke Energy is  
22 a member of MEEA and was a platinum sponsor of the conference. The Summit  
23 Blue presentation was designed to demonstrate, from publicly available data, that



1 utilities in the Midwest need not look exclusively to California and/or New York  
2 for examples of successful programs, because a number of Midwest utilities also  
3 offer exemplary programs. Duke Energy Indiana programs were not a focus of the  
4 presentation, and were not a particular concern of the presenter, but rather were  
5 part of the background information that documented a wide variation in apparent  
6 program costs and benefits.

7 **Q. HOW DO YOU RESPOND TO THE REBUTTAL COMMENTS OF**  
8 **WITNESSES STEVIE AND SCHULTZ THAT THE ENERGY SAVINGS**  
9 **TARGETS IN THE PROPOSED DUKE PROGRAMS ARE NOT TOO**  
10 **LOW?**

11 A. In my testimony, I observed that the energy savings targets set by Duke in  
12 its Application are a small fraction of the of available energy savings documented  
13 in the Forefront study commissioned by Duke, and that I would be surprised if  
14 Duke would tolerate such modest targets in other aspects of its business. In their  
15 rebuttals, Witness Stevie (Stevie Rebuttal Testimony at 6) and Witness Schultz  
16 (Schultz Rebuttal Testimony at 9) countered with the following points, which I  
17 would like to address:

- 18 1. That my citation from the Forefront study of the amount of available  
19 energy efficiency available in South Carolina is incorrect.
- 20 2. That the rate of delivery of the available energy efficiency in the Duke  
21 plan is not substantially different from the amount that is described in the  
22 Forefront study.

1           3.       That the programs operated by the New York State Energy Research and  
2                       Development Authority (“NYSERDA”), which have received numerous  
3                       awards, are in fact producing at about the same rate as the programs that  
4                       Duke is proposing for South Carolina.

5       In my direct testimony and my surrebuttal below, I have endeavored to take Duke  
6       at its word. By that I mean that Duke has announced that its Application in South  
7       Carolina, as well as its similar proposals in North Carolina and Indiana, are  
8       designed to fundamentally alter its business model and the energy economies of  
9       the states that it serves by making energy efficiency a core part of the utility  
10      business. Duke is proposing to very deliberately break the mold of current utility  
11      energy efficiency program regulation with its Save-a-Watt avoided cost  
12      compensation proposal, which it says will enable it to harvest all cost-effective  
13      energy efficiency resources.

14               For that reason, my testimony and sur-rebuttal are not trying to measure  
15      Duke’s proposals against the status quo of utility energy efficiency programs,  
16      because Duke has explicitly rejected that status quo. Rather, my comments are  
17      trying to measure Duke’s Application against its own its own stated goals, to say  
18      that a radically different (and potentially much more lucrative) compensation plan  
19      should be matched to a radically more aggressive set of energy efficiency targets.

20      I think that Duke’s Application fails this test.

21      I will concede Witness Stevie’s correction of my citation, and apologize to the  
22      Commission or other parties who spent any time chasing my mistake. I believe  
23      that my mistake was in referring to Page 1, Table 1 of an earlier (July 24, 2007)

1 version of the Forefront study. Witness Stevie is quoting from Page 1, Table 1 of  
2 the final version of the report. I believe the numbers that Witness Stevie has put  
3 forward in his rebuttal as the correct citations from the Forefront study make my  
4 point even stronger. I said in my direct testimony that Forefront had documented  
5 the availability of about 3.6 million MWH of savings. Mr. Stevie corrected me by  
6 saying that the correct number is actually 4.1 million MWH, about 14% more.

7 He then goes on to imply that the available savings are really not all  
8 available today by stating that, “There [Forefront report, page 1], he might have  
9 also noticed that this was the estimated potential by the year 2026.” In this  
10 statement, I think that Mr. Stevie is confusing the available potential savings with  
11 the savings that can be achieved by the program that Forefront is recommending.

12 In fact, the savings cited in the Forefront study, with the exception of  
13 modest incremental improvements in technology, are all available today and are  
14 all cost effective today. The estimate that the savings will not be realized until  
15 2026 is not a function of natural law, but rather a function of the design and  
16 implementation of Duke’s programs. Forefront’s estimate of the achievement of  
17 the savings by 2026, as cited by Witness Stevie in his rebuttal, is based on current  
18 program best practices, which involve program achievements of about 5 percent  
19 of the potential savings per year, which I characterized in my testimony as modest  
20 and out of line with Duke standards in other aspects of its business.

21 To emphasize this point: suppose that Duke had commissioned a study  
22 that showed technically feasible and cost-effective potential efficiency  
23 improvements in its generating fleet of about 15 percent. Would it take Duke 20

1 years to realize those improvements? It is a fair question to ask why Duke, if it  
2 proposes to be the kind of leader in energy efficiency that it is in other aspects of  
3 the utility business, is willing to settle for results from its energy efficiency  
4 program that it would not tolerate in the management of its generation or  
5 transmission assets.

6           Witness Schultz seeks to reinforce the point made by Witness Stevie that  
7 Duke's proposed program goals are reasonable by stating that the goals in Duke's  
8 Application compare favorably to the achievements of the award-winning  
9 NYSERDA programs in New York. He suggests that both are targeted at  
10 achieving energy savings of about 0.2 percent of consumption. I do not dispute  
11 the accuracy of Witness Schultz's rebuttal, but the Commission should understand  
12 that New York has realized that its achievements in energy efficiency are wholly  
13 inadequate, and has embarked on a course to dramatically increase them.

14           I would like to provide some context in which the Commission can  
15 evaluate the relevance of Witness Schultz's statement, based on my experience as  
16 a member of the New York System Benefits Charge Advisory Group, which is  
17 established and appointed by the New York Public Service Commission  
18 ("NYPSC") to review and transmit NYSERDA program evaluations to the  
19 NYPSC.

20           Duke has announced that it intends to transform the utility business by  
21 making energy efficiency a permanent part of the core business of the utility and  
22 by capturing all cost-effective energy efficiency. In contrast, New York's policy  
23 from 1998 through 2006, under the Pataki Administration, was that the

1 NYSERDA programs were designed to be transitional, would begin the job of  
2 transforming the marketplace to more energy efficiency, and would fade away as  
3 the competitive electricity market took over the job of providing to each customer  
4 the optimal blend of energy efficiency and energy supply.

5 In 2007, the newly elected Spitzer Administration recognized the need to  
6 revise this policy. After ten years, the competitive market in New York serves  
7 only a tiny fraction of customers, and most competitive suppliers have  
8 demonstrated no interest in energy efficiency, no matter how cost-effective it is.

9 Many of the NYSERDA programs have been chronically oversubscribed  
10 and under-funded, so the achievements of the NYSERDA programs have been  
11 constrained by lack of funding, not by any inherent limits in the availability of  
12 savings. The NYSERDA programs also do not include, and are usually not  
13 coordinated with, energy efficiency programs operated by two large publicly-  
14 owned utilities, the New York Power Authority and the Long Island Power  
15 Authority, whose combined energy efficiency budgets exceed NYSERDA's, as  
16 well as the 40 municipal and cooperative utilities in the state.

17 Governor Spitzer therefore announced the "15 by 15" initiative: New York  
18 State will get 15 percent of its total energy requirements from energy efficiency  
19 ("EE") by 2015. The NYPSC has interpreted this initiative as an Efficiency  
20 Portfolio Standard requirement, and is running a statewide collaborative  
21 proceeding, with hundreds of participants representing all stakeholders, about  
22 how the existing NYSERDA programs will be expanded and supplemented by EE  
23 programs run by utilities, both investor- and state-owned, as well as the state

1 agency that administers the low-income weatherization programs and the state  
2 agency that builds a billion dollars worth of hospital and university facilities each  
3 year. As a first step, the Department of Public Service Staff, which is roughly  
4 equivalent to the Office of Regulatory Staff in South Carolina, recommended  
5 increasing the funding of ten key NYSERDA programs by \$250 million per year  
6 (total current NYSERDA budget for all programs is about \$175 million). By the  
7 middle of 2008, the PSC anticipates that it will have launched a set of programs  
8 that will accomplish the Governor's "15 by 15" goal.

9 In summary, I believe that Duke Witnesses Stevie and Schultz have  
10 reinforced the point that I made in my direct testimony that there is a disconnect  
11 between Duke's proposing to break the mold with its compensation proposal, and  
12 its willingness to settle for the *status quo* in program achievements. There should  
13 be no such disconnect. If Witness Schultz is suggesting that NYSERDA's current  
14 accomplishments in energy efficiency are a reasonable benchmark, it follows that  
15 other NYSERDA program benchmarks, (e.g., total program administrative costs  
16 of about 10%, including M&V and a service fee that NYSERDA pays to the state  
17 and no profit incentives) are also reasonable.<sup>1</sup> I suggest that the benchmarks  
18 should go hand-in-hand.

19 **Q. DOES THIS CONCLUDE YOUR SURREBUTTAL TESTIMONY?**

20 **A.** Yes.

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<sup>1</sup> New York Energy Smart Program Evaluation and Status Report, NYSERDA, March 2007, page ES-3, previously submitted with Direct Testimony of Donald Gilligan.

## CERTIFICATE OF SERVICE

I hereby certify that the following persons have been served with the Southern Environmental Law Center (SELCE), Southern Alliance for Clean Energy (SACE), the South Carolina Coastal Conservation League (CCL), and Environmental Defense (ED) surrebuttal testimony of Donald Gilligan:

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This 28th day of January, 2008.

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